

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

UNITED STATES OF AMERICA

v.

CLAUDE JEROME WILSON, II

)
)
)
)
)
)
)

CR. NO. 3:06cr141-MEF

United States's Motion to Continue Trial

The United States respectfully requests the Court to continue the case against Defendant Claude Jerome Wilson until on or after August 15, 2008, or to the Court's next trial term.¹ It requests this relief for the following reasons:

1. On June 14, 2006, Claude Wilson was charged in a one-count Indictment with being a felon in possession of a firearm. On March 5, 2007, Wilson pleaded guilty in a Rule 11(c)(1)(C) plea agreement. Then, on August 16, 2007, Wilson moved and the Court permitted him to withdraw his plea.

2. On three separate occasions—September 12, 2007, December 20, 2007, and April 1, 2008—Wilson moved to continue his trial, mostly based upon the fact that he intended to testify in his sister's state murder case. On each occasion, the United States did not oppose a continuance, based on an understanding between counsel that Wilson would not go to trial, if at all, until after he completed his testimony in his sister's trial.

¹ The United States has contacted Michael Petersen, attorney for the defendant, but was informed that he was in trial. The United States then contacted Donnie Bethel, second attorney for the defendant, who informed the United States that the defendant would oppose a continuance.

3. On Friday, July 25, 2008, in response to a call placed to Wilson's attorney, the United States learned for the first time that Wilson intended to go to trial on the August 11, 2008, trial term.

4. This morning, the United States learned that a key witness for the United States, then Task Force Officer and now Special Agent, Keith Jordan, will be in the state of Nevada from August 11 to 14, 2008, to attend his sister's wedding. Special Agent Jordan is essential to this case, having taken a confession from Wilson.

5. Therefore, the United States requests a continuance of the case so that it either begins on or after August 15, 2008, or would be moved to the Court's next term.²

6. Normally, the grant of a continuance is left to the sound discretion of the trial judge,³ however, the Court is limited by the requirements of the Speedy Trial Act.⁴ Here, however, the case should be continued and the days excluded from the Speedy Trial calculation because "the unavailability of . . . essential witness[es] . . ."⁵ for the Government—specifically, Special Agent Jordan. Furthermore, given the number of times that the United States has not opposed the defendant's requests for continuances, the United States believes that "the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial."⁶

² The United States is not opposed to holding jury selection on Monday, August 11, 2008, and then starting trial on Friday, August 15, 2008, or continuing it to any other date in August or September other than from August 30, 2008, to September 6, 2008, when Agent Jordan will also be unavailable. The United States estimates the trial will take a day to try, excluding jury selection.

³ *United States v. Stilzer*, 785 F.2d 1506, 1516 (11th Cir. 1986).

⁴ 18 U.S.C. § 3161.

⁵ *Id.* § 3161(h)(3)(A)

⁶ *Id.* § 3161(h)(8)(A).

Because both the ends of justice are best served with a continuance and the calculation is otherwise excluded from the Speedy Trial calculation, the Government respectfully requests that the Court continue this case to on or after August 15, 2008, or to the Court's next trial term.

Respectfully submitted this 28th day of July, 2008,

LEURA G. CANARY
UNITED STATES ATTORNEY

/s/ Christopher Snyder
CHRISTOPHER A. SNYDER
Assistant United States Attorney
131 Clayton Street
Montgomery, AL 36104
Phone: (334) 223-7280
Fax: (334) 223-7135
E-mail: christopher.a.snyder@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on July 28, 2008, I electronically filed the foregoing with the Clerk of Court, using the CM/ECF system, which will send notification of such filing to Michael Petersen, Esq.

/s/ Christopher Snyder
CHRISTOPHER A. SNYDER
Assistant United States Attorney